

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER NUNC PRO TUNC IN THE MATTER OF THE JANUARY 26, 1951,
ORDER OF APPROVAL OF MAP NUMBER 6178 FOR WATER APPROPRIATION A-4659

WATER DIVISION 1-B

Background

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-4659 is currently held by Merwin Petersen and Michael and Joni Petersen.
2. On January 26, 1951, the Department approved map number 6178 for appropriation A-4659 with a priority date of April 29, 1950, authorizing the use of water for irrigation of the 43.9 acres of land described below. The water may be diverted from Muddy Creek at points of diversion located on both banks of the stream in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 2 North, Range 35 West of the 6th P.M. in Hitchcock County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 75 acres irrigated at a maximum combined rate of 0.59 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

Township 2 North, Range 35 West of the 6 th P.M. in Hitchcock County		Acres
Section 5:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	2.0
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	4.7
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	24.4
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>12.8</u>
TOTAL		43.9

3. A review of the Department's records indicates that a scrivener's error was made on the original Order listing the legal description above as it does not correspond with that shown on map number 6178. The Order describes the point of diversion in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the appurtenant land under appropriation A-4659 as located in the SE $\frac{1}{4}$ of Section 5, Township 2 North, Range 35 West of the 6th P.M. in Hitchcock County. The correct location of the point of diversion is the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the appurtenant land is in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 5, Township 2 North, Range 35 West of the 6th P.M. in Hitchcock County.

Order

IT IS HEREBY ORDERED:

1. The Order dated January 26, 1951, approving map number 6178 is set aside.

2. Map number 6178 is approved.
3. Appropriation A-4659 with a priority date of April 29, 1950, authorizes the use of water for irrigation of the 43.9 acres of land as depicted on map number 6178 and described below. The water may be diverted from Muddy Creek at points of diversion located on both banks of the stream in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 2 North, Range 35 West of the 6th P.M. in Hitchcock County. The rate that water may be diverted shall not exceed one cubic foot per second (cfs) for every 75 acres irrigated at a maximum combined rate of 0.59 cfs from all points of diversion. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated.

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	SW $\frac{1}{4}$ SE $\frac{1}{4}$	<u>12.8</u>
	TOTAL	43.9

Additional Information

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this approval may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an appropriation for more than five consecutive years may result in cancellation of the appropriation.

These appropriations are not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. These appropriations may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

December 31, 2009

/s/
Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing in accordance with the Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this Order was posted on the Department's website. Copies of this Order and map number 6178 were provided to the Department's field office in Cambridge, Nebraska. Copies of this Order and map number 6178 were mailed on December _____, 2009, to the following:

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212 Boyle Avenue
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Michael & Joni Petersen
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Stratton, Nebraska 69043-0094